Supreme Court
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No. 02-1743

IN THE

Supreme Court of the United States

MATTHEW CARPENTER,

Petitioner,

v.

CHILDREN AND YOUTH SERVICES,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF IN OPPOSITION

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STATEMENT OF THE CASE

This action was instituted by Matthew Carpenter ("Petitioner") on or about February 6, 2002. Petitioner brought this action in the Federal District Court for the Eastern District of Pennsylvania against Children and Youth Services ("Respondent"). It appeared that Petitioner's Complaint primarily attempted to assert claims under the Individuals with Disabilities Education Act, 20 U.S.C. § 1401, *et seq.* ("IDEA") on behalf of himself and his daughters Tiffany and Shannon Carpenter, seeking money damages and injunctive relief, including custody of the children. Petitioner appeared to seek relief available pursuant to 42 U.S.C. § 1983 and 29 U.S.C. § 794 ("Rehabilitation Act").

Petitioner alleged that Respondent failed to identify the disabilities of Tiffany and Shannon in violation of the "Child Find" requirement under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1401, *et seq*. Petitioner appeared to claim some form of discrimination under § 504 of the Rehabilitation Act, 29 U.S.C. § 794, although it was not specifically alleged. Petitioner identified various "failures" of Respondent that he was presumably asserting granted a right of recovery against Respondent. For ease of reference, these allegations are grouped into the following categories: failure to remove the children from the custody of their mother; failure to locate the children when their mother relocated; failure to investigate; failure to act on his complaints; failure to transport the children for visitation; failure to prevent the mental abuse of the children; and failure to investigate Tiffany's "school situation".

Petitioner requested that the United States District Court assume jurisdiction in this matter; issue a declaratory judgment that Respondent had violated his rights; award Tiffany and Shannon "wrap-around services"; put this case in front of a Federal Grand Jury; award custody of Tiffany and Shannon to him; and award damages totaling $25,000,000.00.

In addition to the suit that is the subject of this appeal, Petitioner also filed suit against the Penn Delco School District (incorrectly identified as "Pennell School District Elementary Unit") under Docket No. 02-CV-625. Both cases were assigned to the Honorable Jan E. DuBois.

On or about April 3, 2002, Respondent filed a Motion to Dismiss Petitioner's Complaint. Counsel for Penn Delco School District also filed a Motion to Dismiss. Thereafter, on June 10, 2002, the Honorable Jan E. DuBois conducted a conference call with counsel for Respondent, counsel for Penn Delco School District and Petitioner. At the conclusion of the conference, Judge DuBois indicated his intention to issue an opinion granting the Motions and Dismissing Petitioner's Complaints. Judge DuBois issued a joint Memorandum dated August 9, 2002 dismissing both Complaints. Petitioner filed an additional pleading dated August 22, 2002, which the District Court treated as a Motion for Reconsideration. Judge DuBois denied this request by Order dated August 23, 2002.

Petitioner filed a Notice of Appeal with the Unites States Court of Appeals for the Third Circuit on September 18, 2002. On March 4, 2003, the Court of Appeals for the Third Circuit affirmed the decision of the District Court dismissing the Complaint.

REASONS FOR DENYING THE WRIT

A. There Is No Compelling Reason That The Petition For Writ Of Certiorari Should Be Granted.

The only issue before this Court is whether Petitioner's Complaint was appropriately dismissed. Petitioner's petition is completely devoid of reasons why this Honorable Court should exercise its discretion to grant certiorari in this matter. Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. U.S. Sup. Ct. R. 10.

Petitioner asserts that his claims are of "such imperative public importance as to justify deviation from the normal appellate practice to require immediate determination in this court." Pet. 2. It does not appear that this is the appropriate standard as the United States Court of Appeals for the Third Circuit had already entered its judgment, rather than this being a request for certiorari while a matter was still pending before a Circuit Court of Appeals as is contemplated under U.S. Sup. Ct. R. 11.

The only argument that could potentially be advanced is that the decision so far departed from the accepted and usual course of judicial proceedings as to call for the exercise of this Court's supervisory power. It is clearly not appropriate or warranted in this situation. Judge DuBois considered Petitioner's voluminous Complaint and response to the Motion to Dismiss, as well as taking the opportunity to speak with counsel and Petitioner prior to Dismissing Petitioner's Complaints. The Court of Appeals for the Third Circuit, reviewing the same voluminous documents, agreed that the Petitioner's Complaint did not state a valid cause of action and was properly dismissed.

B. Petitioner's Misstatement Of Fact

In his petition, Petitioner raise sixty-two questions/ statements, as well as several pages of allegations under his "Statement Under Rule 14" and the section captioned "The Setting". The issues raised by Petitioner and the facts alleged should have no bearing on this Court's determination of his petition. Rather than respond to each and every comment, Respondent simply indicates that it is not in agreement with Petitioner's allegations or interpretations of the facts. Petitioner raises many issues that are not contained in the record below and that allegedly occurred after the District Court and Court of Appeals for the Third Circuit addressed this matter. They too are irrelevant to this Court's review of this petition and should not be considered.

CONCLUSION

For all of the foregoing reasons, Respondent respectfully requests that this Honorable Court deny the Petition.

Respectfully submitted,

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